

ENTERED

September 24, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CEDRIC B. LEWIS,

§

Plaintiff,

§

v.

CIVIL ACTION NO. H-19-554

ED GONZALEZ, *et al.*,

§

Defendants.

§

MEMORANDUM AND ORDER

Cedric B. Lewis is a former inmate in the Harris County Jail. He filed a complaint under 42 U.S.C. § 1983 alleging violations of his civil rights. Lewis sued Harris County Sheriff Ed Gonzalez, Harris County District Attorney Kim Ogg, and the Harris County Sheriff's Office.

The court previously dismissed Lewis's claims against the Harris County Sheriff's Office, (Docket Entry No. 15). The remaining defendants filed a motion to dismiss, (Docket Entry No. 19). Lewis did not respond to the motion.

A. The Applicable Legal Standard

In reviewing a motion to dismiss under Rule 12(b)(6), the complaint must be liberally construed in favor of the plaintiff, and all facts pleaded in the complaint must be taken as true. *Campbell v. Wells Fargo Bank*, 781 F.2d 440, 442 (5th Cir.1986).

B. Mootness

The defendants state that Lewis is no longer in jail and attach to their motion a copy of a judgment of deferred adjudication showing that Lewis pleaded guilty to the charge on which he was being held. The court can take judicial notice of this fact. *See Fed. R. Evid. 201.*

“Under Article III of the Constitution this Court may only adjudicate actual, ongoing controversies.” *Honig v. Doe*, 484 U.S. 305, 317 (1988). “Mootness has two aspects: ‘when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.’” *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 396 (1980) (quoting *Powell v. McCormack*, 395 U.S. 486, 496(1969)). “If a dispute has been resolved or if it has evanesced because of changed circumstances, including the passage of time, it is considered moot. With the designation of mootness comes the concomitant designation of non-justiciability.” *American Med. Ass’n v. Bowen*, 857 F.2d 267, 270 (5th Cir. 1988) (citations omitted). Because Lewis is no longer detained, his complaint about Harris County bail practices no longer presents a live controversy and the Complaint is moot.

C. Order

The motion to dismiss, (Docket Entry No. 19), is **granted** and the Complaint, (Docket Entry No. 1), is **dismissed**.

SIGNED on September 24, 2020, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge